

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

El Paso Division

EDGAR ULLOA LUJAN;

SAMAR AHMAD;

VERONICA GONZALEZ;

Plaintiffs,

v.

U.S. DEPARTMENT OF EDUCATION;

MIGUEL CARDONA, Secretary, U.S.
Department of Education, in his official capacity;

MICHELLE ASHA COOPER, Assistant
Secretary for Postsecondary Education, U.S.
Department of Education, in her official
capacity;

Defendants.

CIVIL CASE NO. 3:22-CV-00159-DCG

NOTICE REGARDING NEW CIRCUMSTANCES

Plaintiffs hereby notify the Court of developments in the Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program (“DDRA Fellowship”). On February 10, 2023, Defendants announced the start of the 2023 application cycle in a Federal Register publication: *Application for New Awards; Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program*, 88 Fed. Reg. 8,832 (Feb. 10, 2023) (Attached as Exhibit 1). According to the announcement, \$10.3 million has been appropriated for the Fulbright-Hays Overseas programs in 2023, of which \$3.4 million will be used to fund 2023 DDRA Fellowships. Applications are now open and will end April 11, 2023. Based

on this newly announced deadline, Plaintiffs update their request for the Court to rule on their Motion for Preliminary Injunction (ECF 25) to March 28, 2023—two weeks before the application deadline.

According to Defendants, “[t]he objective for the Fulbright-Hays DDRA Fellowship Program is to provide grants to colleges and universities to fund individual doctoral students to conduct research in other countries in modern foreign languages and area studies for periods of 6 to 12 months.” 88 Fed. Reg at 8,836. Defendants’ performance measures include the “percentage of DDRA fellows who increase their foreign language scores” and “the percentage of DDRA fellows who found employment that utilized their language and area studies skills[.]” *Id.* at 8,837.

Despite the program’s clearly stated foreign-language goals and performance metrics, Defendants have followed through on their promise to devalue the foreign-language evaluation criterion from 15 points to only 1 point out of 106. *Id.* at 8,835; *see* ECF 31 at Page 9 of 35 (promising devaluation).¹ An applicant’s foreign-language proficiency therefore confers virtually no advantage in the competition. Defendants also included as one of their “Priorities” an evaluation criterion that awards two points for “focus[ing] on a modern foreign language other than French, German, or Spanish.” 88 Fed. Reg. at 8,832. Thus, for instance, an applicant who applies to conduct research in Brazil but does not speak a single word of Portuguese will be awarded more points for foreign language than a fluent speaker of Spanish, like Plaintiff Veronica Gonzalez.

¹ It appears 14 points were taken from the foreign-language criterion and reassigned to the “quality of the proposed project” criterion. 88 Fed. Reg. at 8,835.

February 15, 2023

Respectfully submitted,

/s/ Sheng Li

Sheng Li

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CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2023, an electronic copy of the foregoing was filed electronically via the Court's ECF system, which effects service upon counsel of record.

/s/ Sheng Li